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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Low-Volume Long-Distance Usage	)	CC Docket No. 99-249
	)	

To: The Commission

COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

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The Competitive Telecommunications Association ("CompTel"),[1] by its attorneys, hereby responds to the Commission's *Notice of Inquiry* ("NOI") released on July 8, 1999 in the above-captioned proceeding.[2] As discussed in these comments, CompTel strongly supports the Commission's efforts to promote universal service and secure the benefits of competition for all consumers, regardless of usage or income levels. At the same time, CompTel strongly opposes any efforts by the Commission to intervene in the marketplace pricing decisions of non-dominant long distance carriers. The long distance market is sufficiently competitive so as to remove the need for such intervention. In CompTel's view, the development of certain minimum usage and flat-rated calling plans as options for callers reflects the competitive nature of the long distance market today. Because low-income customers have a

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1 With approximately 350 members, CompTel is the principal industry association representing U.S., international and global competitive telecommunications carriers and their suppliers, and hence, has a direct interest in this proceeding.

2 *In the Matter of Low-Volume Long Distance Users, Notice of Inquiry*, CC Docket No. 99-249 (Rel. July 8, 1999).

plethora of low-priced calling options that do not require the payment of monthly or flat fees, there is no reason for the Commission to be concerned about marketplace developments in this industry segment.

I. THE LONG DISTANCE MARKET IS FULLY COMPETITIVE AND, THEREFORE, DOES NOT WARRANT PRICING REGULATION

CompTel strongly supports the Commission's efforts to ensure that all consumers -- regardless their usage or income levels -- reap the benefits of competition in the long distance market. Since the divestiture of AT&T from the Bell Operating Companies in 1984, the Commission consistently has implemented policies designed to promote competition in the long distance market and to pass the benefits of such competition on to the end user customer. It is due to these efforts that the long distance market is now fully competitive, requiring minimal Commission oversight of non-dominant carriers.

While CompTel supports the Commission's goal of ensuring that low-volume residential and single-line business customers benefit from decreasing long distance rates and universal service and access charge reforms, CompTel opposes any efforts by the Commission to intervene in the marketplace pricing decisions of non-dominant carriers. First, CompTel believes that Commission regulation of long distance rates is unwarranted in the current market. As stated above, the long distance market is sufficiently competitive so as to eliminate the need for pricing regulation. There are hundreds of long distance carriers offering multiple rate plans and service options from which customers may choose. While some plans include minimum usage charges in their basic rate plans, many others do not. In addition, 1010XXX dial-around carriers are now ubiquitous in the market and many advertise heavily their multiple rate plans and service options to fit a range of customer needs. Significantly, under the casual calling plans, customers are not required to presubscribe to an interexchange carrier at all and, if they choose that option, they can avoid many of the flat or minimum charges imposed by carriers upon their presubscribed customers while still paying low per-minute calling rates.

Second, because the marketplace is fully competitive, the Commission can and should presume that any flat or minimum rates imposed by IXCs reflect marketplace forces. As the Commission recognized in the *AT&T Reclassification Order*,[3] in a competitive environment where numerous alternatives for service exist, carriers may only charge what the market will bear or risk losing customers to other competitors. Thus, in the current long distance market, it would be difficult if not impossible for any non-dominant carrier to impose artificially exorbitant fees or baseless usage charges without losing customers.

Further, in a regulated environment, carriers incur certain costs to serve customers, even when they make no or just a few long distance calls. In particular, carriers incur billing and account management costs for all presubscribed customers. Further, carriers must pay the primary interexchange carrier charge ("PICC") for each line, as mandated by the Commission, regardless of usage, and carriers incur administrative costs to calculate and recover the PICC from subscribers. In addition, as part of their universal service obligations, carriers incur administrative costs in determining the amounts to be paid to the Universal Service Fund ("USF") as well as whether and how much of the amount paid should be passed-through to the end user customer. Thus, because these government-mandated costs are a necessary part of

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3 *Motion of AT&T To Be Reclassified as a Non-Dominant Carriers, Order*, 11 FCC Rcd 3271, 3305-3307 (1996). *See also In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, Second Report and Order*, 11 FCC Rcd 20730, 20742 (1996) (recognizing that the "high churn rate among consumers of interstate, domestic, interexchange services indicates that consumers find the services provided by interexchange carrier to be close substitutes, and that consumers are likely to switch carriers in order to obtain lower prices or more favorable terms and conditions.").

doing business, carriers should not be criticized for seeking to recover those costs through flat rates or minimum usage plans. Indeed, for many carriers, including new entrants seeking to maintain extremely low usage rates for services, the ability to recover these types of costs through flat rates or minimum usage requirements is essential if they are to remain competitive.

Finally, CompTel is concerned that the Commission's efforts to protect low-income users, while commendable, may open a Pandora's box to re-regulation of the long distance industry. Long distance carriers currently are subject to several fee requirements to recover costs associated with access to the local loop and universal service. While carriers accept these costs as part of their business obligations, how they recover these costs is a business decision that should be made by carriers subject to market constraints. It is this sort of market-based decisionmaking that Congress desired in promulgating the Telecommunications Act of 1996. Now that the long distance market is fully competitive, the Commission's goal should be to eliminate obsolete requirements where possible, not to create additional regulations.

II. THE COMMISSION'S PRIMARY OBJECTIVE SHOULD BE TO ENSURE THAT CUSTOMER RATES REFLECT MARKET PRICES

In the *NOI*, the Commission's primary objective should be to ensure that its regulatory approach establishes the conditions for a competitive market to govern the rate levels and packages that carriers offer to subscribers. With regard to low-volume customers, the Commission's goal should be to ensure that there are no market imperfections that permit IXCs to impose costs on subscribers that are not market-based. Recent activity in the long distance market clearly indicates that non-dominant carriers are operating as expected in a fully competitive market. Prices for long distance services have decreased to reflect reductions in carriers' operating costs. Between 1992 and 1997, the average per-minute rate for long distance calls decreased 33 percent from 15 cents per minute to 10 cents per-minute.[4] Moreover, a one-minute call that cost 15 cents seven years ago may now cost as little as 3 cents per minute, a reduction of nearly 80 percent.[5] CompTel submits that the application of minimum usage fees has allowed carriers to significantly reduce the per-minute rates for calls. This decrease in price is exactly what the Commission intended in deregulating the long distance industry and further proof that carriers are acting in response to market forces.

With regard to low-income subscribers, CompTel shares the Commission's concerns that these users should not be burdened with inequitable minimum usage and flat-rated charges. However, in assessing the market conditions for low-income individuals, the Commission must distinguish its concern for *low-volume* users and *low-income* users. As Commissioner Powell noted in his Separate Statement to the *NOI*, as a general matter, a low-volume user does not necessarily equate to a low-income user, and *vice versa*.[6] Many low-volume callers make few long distance calls as a matter of choice and not due to financial circumstances, while many low-income persons choose to make a relatively large number of long distance calls.[7] Therefore, any policies directed at low-volume users are an extremely imprecise way of seeking to provide assistance to low-income subscribers. In any event, where low-income users are concerned, CompTel believes that there are meaningful ways to address

4 *See Telecommunications Industry Revenue: 1997, Table 5*, Jim Lande and Katie Rangos, Industry Analysis Division, Federal Communications Commission, Washington, D.C. (Oct. 1998).

5 *Excel Communications Announces Three Cents-A-Minute Calling Plan*, Company Press Release (September 7, 1999).

6 *NOI, Separate Statement of Commissioner Michael K. Powell* at 3.

7 *See id.*

the impact of flat-rated and minimum usage charges without prescribing how IXCs may recover costs for services.

A. Allow Customers to Subscribe to Local Services Only

One way to ensure that low-income (or low-volume) customers can avoid flat-rated and minimum service charges associated with interexchange services is to require the ILECs to offer customers the option of subscribing to local services only. Such an option would enable customers to avoid all charges assessed by interstate interexchange carriers by, in effect, opting out of interstate calling from their access lines. (Such customers would continue to have interstate calling options through prepaid cards, pay telephones, and other mechanisms.)

Under the current universal service regime, ILECs are required to provide toll blocking or limitation service for Lifeline customers who request such options.[8] The ILECs are eligible to receive additional universal service funds to cover the costs associated with voluntary toll limitation. CompTel urges the Commission to consider enacting a similar support program for all customers by allowing customers the option of subscribing to local services only. The ILECs should now have the technical capability to block toll calls from a subscriber as a result of their Lifeline toll blocking requirements. CompTel believes that the local services option would be particularly attractive to low-income, low-volume users, since many upper-income, low-volume subscribers might wish to retain the option of making 1+ interstate calls.

In addition, while CompTel generally opposes any proposal mandating carriers to include informational inserts in billing statements, CompTel would not object to a one-time billing insert by the ILECs which informed local callers of their option not to presubscribe to a long distance carrier. The option to subscribe to local services only is tantamount to a new service offering and, as such, customers must be made aware of its availability. CompTel submits that the ILECs should bear this responsibility as an integral aspect of their provision of local exchange service, and therefore such costs should not be passed through to long distance carriers. Moreover, customers often pre-select their long distance carrier when initiating local service and, thus, should be apprised of all options, including the option not to pre-select a carrier, at that time. There would be no added costs to the ILECs since they already have customer service representatives available to discuss service alternatives with new customers.

B. Reform the Way the PICC Is Assessed

In addition, CompTel strongly encourages the Commission to reevaluate how PICC charges are assessed upon end users. As CompTel has stated in the past, the Commission should require the ILECs to bill the PICC directly to the end user.[9] The process by which the ILECs recover the PICC is not optimal. Presently, the ILECs bill the PICC to the presubscribed interexchange carrier, which in turn must collect the PICC from end-users. This mechanism is problematic because it is inefficient to use the IXC as a middleman. The ILECs have the data and billing systems in place to collect the PICC directly from subscribers and, as the ultimate beneficiaries, they should be solely responsible its collection. Recognizing that this proceeding may not be the appropriate forum to resolve this issue, CompTel encourages the Commission to review issues involving PICC recovery in the access reform or other relevant proceeding.

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8 *In the Matter of Federal-State Joint Board on Universal Services, Report and Order*, 12 FCC Rcd 8776, 8980 (1997).

9 *See Comments of the Competitive Telecommunications Association, In the Matter of MCI Telecommunications Corporation, Petition for the Prescription of Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250 (dated March 18, 1998).

III. COMPTEL OPPOSES ANY PROPOSAL TO EXPAND THE UNIVERSAL SERVICE FUND OR REGULATE HOW CARRIERS PASS THROUGH ACCESS CHARGES

A. There Is No Basis To Expand the Universal Service Fund to Include Long Distance Services

CompTel opposes any efforts to expand the universal service program to include interstate long distance services. The purpose of the Universal Service Fund is to provide low-income individuals and subscribers in high-cost rural areas with affordable access to essential telecommunications services. There is no reason to believe at this time that long distance services -- while commonly used -- are "essential" in the universal service context. Moreover, CompTel believes that it would be contrary to the public interest to make the USF, which already is too large, even larger to support the inclusion of long distance services in the program. Although carriers are assessed universal service-related costs, it is the consumer that ultimately pays for the program in the form of higher rates.

Furthermore, expansion of the USF is not warranted in the current marketplace. As stated above, the long distance market is now fully competitive and, as a result, consumers have numerous service providers and service offerings from which to choose. Long distance rates are also at an all-time low. Accordingly, because market forces already have fostered lower service rates, there simply is no reason to expand the program to create unnecessary subsidies for long distance service. Moreover, there is no way to accurately target a long distance subsidy since low-volume usage is not necessarily an indication of low-income.

B. The Commission Should Refrain From Inquiring About The Reasonableness Of Carriers' Charges To Recover USF Charges and PICCs

CompTel urges the Commission not to inquire whether carriers are somehow "over-recovering" the costs they incur in connection with the USF charge and PICCs from a particular subscriber or class of subscribers. There simply is no objective way for the Commission to judge accurately whether a particular IXC's charges are cost-based. Rather, the Commission should rely upon market forces in the intensely competitive long distance market to ensure reasonable practices by non-dominant carriers. Should there arise a case where the Commission or customer believes that a carrier may be recovering its access charge and universal service costs in unreasonable ways, the Commission should use its enforcement authority under Title II of the Communications Act, or if appropriate, by opening rulemaking dockets to address those issues directly.

C. CompTel Opposes Any Proposals to Regulate How Carriers Pass-Through Costs

In the *NOI*, the Commission inquires as to whether it should require carriers to: (1) maintain rate plans that do not include a minimum monthly charge; (2) pass-through a specific portion of interstate switched access charge reductions to a basic rate plan; and (3) pass-through a PICC calculated as a percentage of the bill.[10] CompTel opposes each of the above proposals because they would result in unwarranted interference in a fully competitive marketplace. In addition, there is no evidence that any of these proposals would significantly redound to the benefit of low-income subscribers. There already are carriers that do not include monthly minimums in their rate plans. Likewise, market forces ensure that carriers efficiently pass-through any net access charge reductions, which is one of the reasons that long distance rates are continually decreasing. To pass through the PICC as a percentage of the total bill, while helpful for some, would create fluctuations in billing statements for many customers,

[10] *NOI* at 13.

including low-volume customers, and a degree of uncertainty that currently does not exist. Further, such a pass-through requirement would create a new implicit subsidy from high-volume to low-volume users which is neither economically efficient nor necessary to ensure that low-income (and low-volume) users are treated equitably in the current long distance market. Further, as noted above, any such subsidy would be badly flawed because it would inaccurately equate low-volume with low-income subscribers.

D. CompTel Opposes a Requirement to Include Billing Inserts

While CompTel generally supports any efforts to increase customer awareness, CompTel opposes the Commission's proposal to require carriers to include consumer education inserts in billing statements. The cost of requiring an additional billing insert would be expensive for carriers and, ultimately, would result in higher rates for customers. Instead, CompTel urges the Commission to rely on competitive market forces to ensure that customers are fully apprised of the various service alternatives. As currently is the case, in a competitive market, carriers will go to great lengths to inform customers of their service offerings in an effort to maintain a competitive edge and win more customers. However, if the Commission feels compelled to require billing inserts, CompTel urges the Commission to require a single insert rather than monthly billing inserts.

IV. CONCLUSION

CompTel respectfully submits that the Commission should not adopt the proposals in the *NOI* at this time. As discussed throughout, the long distance marketplace is fully competitive so as to eliminate the need for pricing regulations directed at non-dominant carriers. Accordingly, CompTel urges the Commission to continue the path to full competition and rely upon market forces to ensure reasonable and equitable rates for consumers.

Respectfully submitted,

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Date: September 22, 1999

CERTIFICATE OF SERVICE

I, Andrea D. Pruitt, hereby certify that copies of the foregoing Comments of the Competitive Telecommunications Association were served on September 22, 1999 by messenger on the following persons.

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